



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
INSPECTOR GENERAL

MEMORANDUM

DATE: February 6, 2017

TO: Inspector General, Assistant Inspectors General and
Deputy Assistant Inspectors General

FROM: Scott Levine
Associate Counsel / OIG FOIA Officer

SUBJECT: Freedom of Information Act Request (EPA-HQ-2017-003526)

The Office of Counsel received the attached FOIA request and needs your assistance in identifying and forwarding responsive documents. *OIG Procedure 502: Freedom of Information Act, Privacy Act, Congressional and News Media Requests for Documents* requires that you or your designee direct a comprehensive and thorough search for hard copy and electronic files (including emails) within your office and from your staff. The search should be conducted in all logical and reasonable locations and should be sent to all staff that may have responsive records. If you have any questions as to what may be potentially released, please contact me by phone or email.

Within **five working days of this memo**,

1. Please forward the responsive documents in **electronic format** to the Office of Counsel. Please have your designated staff person load the responsive material in your folder under G:\OIG-FOIA.
2. If you have any concern about the **release** of any specific material in the responsive records, please identify that material and provide an explanation.
3. If your office needs additional time to search for records or if you are unable to provide the records in an electronic format, please contact me as soon as possible. If your search requires more than two hours, please contact the FOIA Officer before continuing.

Note: Current Government-wide policy requires all agencies to interpret FOIA requests as broadly as possible. In the spirit of transparency, please include all potentially responsive documents for consideration. If you are uncertain about how to interpret a request, please contact me.

FROM: Inspector General, Assistant Inspectors General and
Deputy Assistant Inspectors General

TO: Scott Levine
Associate Counsel / OIG FOIA Officer

I have reviewed the attached FOIA request and hereby certify that:

- ☐ I have forwarded an electronic copy of all responsive OIG records from my office;
- ☐ I located responsive records generated by non-OIG EPA offices and have forwarded those records electronically to OC for referral to the Agency;
- ☐ My office has no responsive records for this request;
- ☐ Other: _____

Additionally, I hereby certify that the following systems were searched:

- ☐ IGEMS
- ☐ Lotus Notes / Outlook
- ☐ Chron Files
- ☐ AutoAudit
- ☐ Other System(s) (please list) _____

Are you aware of any other offices that may have responsive documents? If so, please list:


Printed Name

Signature

Date

Request Details**Request Type : FOIA****Status : Assignment Determination****Due Date : N/A** **0 (Never Started)**

Tracking Number : EPA-HQ-2017-003526

 Requester : Mr. Allan Blutstein

Organization : America Rising

Requester Has Account : Yes

Email Address :

(b) (6)

Phone Number : (b) (6)

Fax Number : N/A

Address : 1555 Wilson Blvd.
Suite 307

City : Washington

State/Province : DC

Zip Code/Postal Code : 22209

Submitted Date : 02/02/2017

Last Assigned Date : 02/03/2017

Fee Limit : \$25.00

Request Track : Simple

Due Date : N/A

Assigned To : Office of the Inspector
GeneralLast Assigned By : Cynthia Floyd-Coleman
(Headquarters)

Submission Details

Case File

Admin Cost

Assigned Tasks

Comments (1)

Review

Request HandlingRequester Info Available to
the Public : Request Track : Fee Category :

Fee Waiver Requested: No

Fee Waiver Status: N/A

Expedited Processing No
Requested :

Expedited Processing Status : N/A

Request Perfected : Acknowledgement Sent Date:

Unusual Circumstances ? : No

5 Day Notifications: ☐Litigation : **Request Description**

Short Description :

On February 2, 2017, Politico reported that certain EPA employees may be using non-agency communication devices or applications to discuss agency business. See <http://www.politico.com/story/2017/02/federal-workers-signal-app-234510>. in light of these circumstances, which may violate the Federal Records Act, I hereby request copies of any email sent or received by the Inspector General or the Assistant IG for Investigations on February 2, 2017, that mentions or refers to the above-referenced Politico article.

Description Available to the
Public : Has Description Been ☐
Modified?**Attached Supporting Files**

No supporting files have been added.

Upload Supporting Files

No attachments have been added.

From: [Elkins, Arthur](#)
To: [Mason, Darryl](#); [Levine, Scott](#)
Subject: RE: New FOIA request: EPA-HQ-2017-003526
Date: Thursday, February 16, 2017 7:36:21 PM

Darryl and Scott,

I checked my e-mails related to subject and have no responsive documents that refer to the Politico article at question. If additional info is needed, please let me know.

Thank you.

Art

From: Mason, Darryl
Sent: Thursday, February 16, 2017 3:24 PM
To: Elkins, Arthur <Elkins.Arthur@epa.gov>
Subject: FW: New FOIA request: EPA-HQ-2017-003526

Sir,

When you get a moment, can we connect on this FIOA request?

From: Levine, Scott
Sent: Monday, February 06, 2017 2:17 PM
To: Mason, Darryl <Mason.Darryl@epa.gov>
Subject: New FOIA request: EPA-HQ-2017-003526

Hi Darryl,

Please see the attached FOIA request, EPA-HQ-2017-003526, directed to the Inspector General. The requester is seeking information related to a Politico article (<http://www.politico.com/story/2017/02/federal-workers-signal-app-234510>). However, the request is very specific in what it is seeking. The requester is seeking **any email sent or received by Art on February 2, 2017 mentioning or referring to the Politico article**. I have also sent this request to Pat Sullivan.

Please let me know if I can provide any additional guidance.

Best regards,
Scott

Scott Levine
Associate Counsel / OIG FOIA Officer
Office of Inspector General, Office of Counsel

U.S. Environmental Protection Agency
levine.scott@epa.gov | (202) 566-0641



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

FFR 2 4 2017

Mr. Allan Blutstein
America Rising
1555 Wilson Boulevard, Suite 307
Washington, DC 22209

OFFICE OF
INSPECTOR GENERAL

Re: Freedom of Information Act Request No. EPA-HQ-2017-003526 – Final Disposition

Dear Mr. Blutstein:

This letter responds to your Freedom of Information Act request to the Environmental Protection Agency Office of Inspector General dated February 2, 2017, requesting copies of “any email sent or received by the Inspector General or the Assistant IG for Investigations on February 2, 2017, that mentions or refers to [a] referenced Politico article.”

After a thorough search based on the information you provided, the Office of Inspector General has determined that we have no records that are responsive to your request. The D.C. Circuit Court of Appeals, in Oglesby v. Department of the Army, 920 F.3d 57 (D.C. Cir. 1990), has ruled that a “no record” response constitutes an “adverse determination,” thereby requiring an agency to notify requesters of their administrative appeal rights under 5 U.S.C. § 552(a)(6)(A)(i). Accordingly, you may appeal this response by addressing your written appeal to the Counsel to the Inspector General, Office of Counsel, Office of Inspector General, 1200 Pennsylvania Avenue, NW, Mailcode 2411T, Washington, D.C. 20460 or via email to oig_foia@epa.gov. The appeal must be made in writing and must be submitted no later than 90 calendar days from the date of this letter. The appeal letter and envelope should include the request number listed above and be marked “Freedom of Information Act Appeal.”

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

Additionally, you may seek dispute resolution services from either the EPA FOIA Public Liaison (hq.foia@epa.gov; 202-566-1667) or the Office of Government Information Services (OGIS). OGIS serves as a bridge between FOIA requesters and agencies and can be reached by email at ogis@nara.gov, by phone at 1-877-684-6448, or by fax at (202) 741-5769.

If you have any questions concerning this matter, you may contact Scott Levine, OIG FOIA Officer, at (202) 566-1512 or oig_foia@epa.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Susan Barvenik". The signature is fluid and cursive, with the first name "Susan" and last name "Barvenik" clearly distinguishable.

Susan Barvenik
Associate Counsel




EPA-HQ-2017-003526 Request Details

Clock Days: 15

Case Phase: Closed Case Status: Closed Due Date: 03/03/2017

Requester Information

Existing Comments

Date Created	 Last Edited On	User Name	Action	Detail
02/03/2017 08:52 AM	08/25/2018 10:34 PM	Cynthia Floyd-Coleman	 	-
Comment	Please perfect the request once you review to assure it is a proper request.			

New Comment

0/2000

FROM: Inspector General, Assistant Inspectors General and
Deputy Assistant Inspectors General

TO: Scott Levine
Associate Counsel / OIG FOIA Officer

I have reviewed the attached FOIA request and hereby certify that:

- () I have forwarded an electronic copy of all responsive OIG records from my office;
- () I located responsive records generated by non-OIG EPA offices and have forwarded those records electronically to OC for referral to the Agency;
- (☒) My office has no responsive records for this request;
- () Other: _____

Additionally, I hereby certify that the following systems were searched:

- () IGEMS
- () Lotus Notes / Outlook
- () Chron Files
- () AutoAudit
- () Other System(s) (please list) _____

Are you aware of any other offices that may have responsive documents? If so, please list:

Darryl Masen

Printed Name

Signature

2/23/2017
Date

FROM: Inspector General, Assistant Inspectors General and
Deputy Assistant Inspectors General

TO: Scott Levine
Associate Counsel / OIG FOIA Officer

I have reviewed the attached FOIA request and hereby certify that:

- () I have forwarded an electronic copy of all responsive OIG records from my office;
- () I located responsive records generated by non-OIG EPA offices and have forwarded those records electronically to OC for referral to the Agency;
- (✓) My office has no responsive records for this request;
- () Other: _____

Additionally, I hereby certify that the following systems were searched:

- () IGEMS
- () Lotus Notes / Outlook
- () Chron Files
- () AutoAudit
- (✓) Other System(s) (please list) AIGI SULLIVAN EMAIL for 2/2/17

Are you aware of any other offices that may have responsive documents? If so, please list:

(b) (6)

Printed Name

(b) (6)

Signature

2-6-17
Date

From: [Barvenik, Susan](#)
To: [Levine, Scott](#)
Subject: Please apply signature - No Record Responses: EPA-HQ-2017-003526, -003601, -003753
Date: Friday, February 24, 2017 10:16:39 AM

Hi Scott,
I reviewed the letters and have no changes. I liked your approach for each one.
These are ready to sign out. Please apply my signature.
Thanks! Sue

From: Levine, Scott
Sent: Friday, February 24, 2017 9:05 AM
To: Barvenik, Susan <Barvenik.Susan@epa.gov>
Subject: For Review - No Record Responses: EPA-HQ-2017-003526, -003601, -003753

Hi Sue,

Three FOIAs are ready for review as no record responses, based on the information received from the respective offices.

[EPA-HQ-2017-003526](#) is the case we discussed yesterday seeking emails from Art and Patrick on one single day relevant to a specific article.

[EPA-HQ-2017-003601](#) was seeking a copy of emails from a specific domain to any Capstone official, (b) (5) [REDACTED]. Art did a search for the relevant date range and said he had no records from the domain in question (b) (5), (b) (6) [REDACTED]
[REDACTED]

[EPA-HQ-2017-003753](#) is seeking records from EOP/transition team concerning Art's tenure in office. Art said he had no emails on the subject (b) (5), (b) (6) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Please let me know if you have any questions.

Thanks,
Scott

From: [Mason, Darryl](#)
To: [Levine, Scott](#)
Subject: RE: Follow-up re: FOIAs EPA-HQ-2017-003526, 003601, 003753
Date: Tuesday, February 14, 2017 10:18:00 AM

Scott,
I apologize for the delay. I will ensure they are complete 'this week.'

From: Levine, Scott
Sent: Tuesday, February 14, 2017 10:17 AM
To: Mason, Darryl <Mason.Darryl@epa.gov>
Subject: Follow-up re: FOIAs EPA-HQ-2017-003526, 003601, 003753

Hi Darryl,

I wanted to quickly follow-up on these three FOIA requests from last week which require a search of Art's email for very narrow subjects. Do you have an estimated time of when I should anticipate a response?

Thanks,
Scott

Scott Levine
Associate Counsel / OIG FOIA Officer
Office of Inspector General, Office of Counsel
U.S. Environmental Protection Agency
levine.scott@epa.gov | (202) 566-0641

From: (b) (6)
To: [Levine, Scott](#)
Cc: (b) (6)
Subject: RE: Two New FOIA requests: EPA-HQ-2017-000958; EPA-HQ-2017-003526
Date: Monday, February 6, 2017 3:40:46 PM

Completed. (b) (6)

Special Agent (b) (6)
Desk Officer for the EPA, OIG Hotline
US EPA, OIG, Office of Investigations HQ
(b) (6)

Hotline - 202-566-2476 or 888-546-8740
Hotline Fax 202-566-2599 Web Address oig_hotline@epa.gov

Hotline records are protected under the Privacy Act 5 U.S.C. § 552a. All EPA employees handling protected information have a legal and ethical obligation to hold that information in confidence and to actively protect it from improper uses. Except as specifically authorized, EPA employees shall not disclose, directly or indirectly the contents of any record about another individual to any person or organization. EPA employees who willfully release protected information, without authority, may be guilty of a misdemeanor and fined up to \$5,000. In addition, any employee violating the Privacy Act or EPA regulations is subject to disciplinary action, which may result in dismissal.

From: Levine, Scott
Sent: Monday, February 06, 2017 2:56 PM
To: (b) (6)
Subject: RE: Two New FOIA requests: EPA-HQ-2017-000958; EPA-HQ-2017-003526

Sorry – forgot to attach the requests!

From: Levine, Scott
Sent: Monday, February 06, 2017 2:56 PM
To: (b) (6)
Cc: (b) (6)
Subject: Two New FOIA requests: EPA-HQ-2017-000958; EPA-HQ-2017-003526

Hi (b) (6),

I have two new FOIA requests for your office (and probably another one on the way later today).

EPA-HQ-2017-000958: The requester is seeking communications *about* the investigation. We have already released the ROI and exhibits for this investigation so I don't need any of that (as part of EPA-HQ-2016-009299). (b) (5)

EPA-HQ-2017-003526: This request is pretty specific and only directed to Pat Sullivan (I have requested records from Art in a separate email to Darryl). The requester is specifically looking for any email sent or received by Pat on February 2, mentioning or referring to a Politico article (<http://www.politico.com/story/2017/02/federal-workers-signal-app-234510>).

Please let me know if I can provide any additional information or guidance on the above.

Scott

Scott Levine

Associate Counsel / OIG FOIA Officer

Office of Inspector General, Office of Counsel

U.S. Environmental Protection Agency

levine.scott@epa.gov | (202) 566-0641

EPA-HQ-2017-003526 Request Details

Clock Days: 15

Case Phase: Closed Case Status: Closed Due Date: 03/03/2017

Requester Information

Requester	Mr. Allan Blutstein
Organization	America Rising
Requester Has Account	Yes
Email Address	(b) (6)
Phone Number	(b) (6)
Fax Number	
Address	1555 Wilson Blvd. Suite 307
City	Washington
State/Province	DC
Zip Code/Postal Code	22209
Tracking Number	EPA-HQ-2017-003526
Submitted Date	02/02/2017
Received Date	02/02/2017
Perfected Date	02/02/2017
Last Assigned Date	02/24/2017
Assigned To	Scott Levine (Office of the Inspector General)
Last Assigned By	Scott Levine (Office of the Inspector General)
Request Track	Simple
Fee Limit	\$25.00

Closure Information

Closed Date	02/24/2017
Disposition	No Records
"Other" Disposition	
Exemptions Used	
Statutes Used	
Subtypes Used	

Request Handling

Requester Info Available to the Public	Yes
Request Track	Simple
Fee Category	Commercial
Fee Waiver Requested	No
Fee Waiver Status	
Expedited Processing Requested	No
Expedited Processing Status	

Request Type	FOIA
Request Perfected	Yes
★ Perfected Date	02/02/2017
Acknowledgement Sent Date	
Unusual Circumstances	No
Litigation	No
5 Day Notifications	

Description

513/2000

On February 2, 2017, Politico reported that certain EPA employees may be using non-agency communication devices or applications to discuss agency business. See <http://www.politico.com/story/2017/02/federal-workers-signal-app-234510>. in light of these circumstances, which may violate the Federal Records Act, I hereby request copies of any email sent or received by the Inspector General or the Assistant IG for Investigations on February 2, 2017, that mentions or refers to the above-referenced Politico article.

Has Description Been Modified	
Description Available to the Public	Yes
Short Description	

Additional Information

Unusual circumstances Invoked and Due Date Extended	Select Unusual circumstances Invoked and Due...
Date Unusual Circumstances Invoked – you MUST go to EXTEND DUE DATE in LEFT-HAND NAVIGATION BAR and COMPLETE FIELDS including ESTIMATED DATE OF COMPLETION	
★ Records Locations - Identify one or more locations where records may be located	Select Records Locations - Identify

Attached Supporting Files

Attachments Available to the Public	No
-------------------------------------	----

Attached File Name	Size (MB)	File Type	Remove
No supporting files have been uploaded.			

